

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JULY 2, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2508

**Introduced by Assembly Member Bonilla
(Coauthor: Assembly Member Beall)**

February 24, 2012

An act to add Chapter 3.7 (commencing with Section 12140) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2508, as amended, Bonilla. Public contracts: public health agencies.

Existing law requires a state agency to comply with specified procedures in awarding agency contracts.

This bill *would* prohibit, with specified exceptions, a state agency authorized to ~~contract for~~ *enter into contracts relating to* public benefit programs from contracting for *services provided by a call center services that directly serves applicants for, recipients of, or enrollees in those public benefit programs* with a contractor or subcontractor unless that contractor or subcontractor certifies in ~~his or her~~ *its* bid for the contract that the contract, and any subcontract performed under that contract,

will be performed solely with workers employed in California. This bill would impose a civil penalty, as provided, for knowingly providing false information in that certification. This bill would specify that the Governor may waive these requirements during a declared emergency. This bill would also require the contract to include a clause for termination for noncompliance and specified penalties, if the contractor or subcontractor performs the contract or the subcontract with workers ~~outside of~~ *not employed in California* during the life of the contract.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The federal and state economies are recovering from the great recession and California still has a high unemployment rate. Millions of Californians are not working or are working less than they want and need full-time employment. California continues to allow state public benefit call center contracts to be awarded to contractors that perform the work outside the United States.

(b) By contracting and subcontracting outside of the country, jobs are displaced in the United States and in California, and taxpayer dollars are used to create jobs in foreign countries. State tax revenues should be used to create jobs in the United States and in California, especially when the taxpayer dollars are designated for programs meant to create jobs and address problems associated with joblessness.

SEC. 2. Chapter 3.7 (commencing with Section 12140) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 3.7. PROHIBITION OF THE OFFSHORING OF STATE
PUBLIC BENEFITS CONTRACTS

12140. (a) Notwithstanding any other law, any state agency authorized to enter into contracts ~~for relating to~~ public benefit programs shall ~~not only~~ contract for *services provided by a call center services for that directly serves applicants for, recipients of, or enrollees in* those public benefit programs with a contractor ~~unless that contractor certifies in his or her its bid for the contract that the services provided under the contract, or any part thereof,~~

1 and any subcontract performed under that contract, *to applicants*
2 *for, recipients of, or enrollees in, those public benefit programs,*
3 will be performed solely with workers employed in California.
4 Any contractor that knowingly provides false information in the
5 certification required by this subdivision shall be subject to a civil
6 penalty in an amount of up to ten thousand dollars (\$10,000), in
7 addition to any other remedies available to the state agency. An
8 action for a civil penalty under this subdivision may be brought
9 by any public prosecutor in the name of the people of the State of
10 California.

11 (b) For purposes of this section:

12 (1) “Call center” means a building, facility, or operation where
13 customer or client services or assistance is provided by telephone,
14 fax, ~~email~~ *e-mail*, text, or Web-based interaction.

15 (2) “Public benefit programs” means California Work
16 Opportunity and Responsibility to Kids (CalWORKs), CalFresh,
17 Medi-Cal, Healthy Families, and the California Healthcare
18 Eligibility, Enrollment, and Retention System.

19 (c) (1) The contract shall provide that in the event a contractor
20 or subcontractor performs the contract or the subcontract for call
21 center services with workers ~~outside of~~ *not employed in* California
22 during the life of the contract, the contract shall be terminated for
23 noncompliance and the contractor or subcontractor shall pay a
24 penalty to the state agency in an amount equal to the amount paid
25 by the state agency for the percentage of work that was performed
26 with workers ~~outside of~~ *not employed in* California.

27 (2) *The penalty authorized in paragraph (1) shall be in addition*
28 *to any other applicable penalty, including, but not limited to, the*
29 *penalty provided in subdivision (a).*

30 (d) The requirements of subdivision (a) shall not apply if the
31 Governor waives those requirements pursuant to Section 8571 of
32 the Government Code.

33 (e) This section shall not apply to the following:

34 (1) A contract, if the refusal to award that contract, on the basis
35 that the contractor or subcontractor does not certify that the contract
36 and any subcontract performed under that contract will be
37 performed solely with workers ~~within~~ *employed in* California,
38 would violate the specific terms of the Agreement on Government
39 Procurement of the World Trade Organization or any other bilateral

1 or regional free trade agreement to which the State of California
2 has consented.

3 (2) A contract or subcontract, currently in place, if ~~it~~ *the*
4 *application of this section* would result in a violation of the terms
5 of the contract, but upon expiration of that contract, these
6 provisions shall be added before a new contract can be executed
7 or *the contract* renewed.

8 (3) A contract for a public benefit program between a state
9 agency and a health care service plan or a specialized health care
10 service plan regulated by the Department of Managed Health Care,
11 and any subcontract performed under that contract, or a disability
12 insurer or specialized health insurer regulated by the Department
13 of Insurance, and any subcontract performed under that contract.

14 (f) *This section shall be construed so as to not conflict with, and*
15 *be applied consistent with, federal law.*